

EXHIBIT 1

FILED
OCT 20 2014

STEPHEN H. WASH, CLERK OF THE COURT
SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF CONTRA COSTA

By A. Cardinali Deputy Clerk

SUMMONS ISSUED

PER LOCAL RULE 5 THIS
CASE IS ASSIGNED TO
DEPT 33

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF CONTRA COSTA
LIMITED JURISDICTION**

JESSIKA ALEXUS,

Plaintiff,

vs.

**GC SERVICES LIMITED
PARTNERSHIP,**

Defendant.

) Case No.

) **COMPLAINT FOR VIOLATION**
) **OF ROSENTHAL FAIR DEBT**
) **COLLECTION PRACTICES ACT,**
) **FEDERAL FAIR DEBT COLLECTION**
) **PRACTICES ACT, AND TELEPHONE**
) **CONSUMER PROTECTION ACT**

) (Amount not to exceed \$10,000)

-) 1. Violation of Rosenthal Fair Debt
) Collection Practices Act
) 2. Violation of Fair Debt Collection
) Practices Act
) 3. Violation of Telephone Consumer
) Protection Act

I. INTRODUCTION

1. This is an action for damages brought by an individual consumer for Defendant's violations of the Rosenthal Fair Debt Collection Practices Act, Cal Civ Code §1788, *et seq.* (hereinafter "RFDCPA") and the Fair Debt Collection Practices Act, 15 U.S.C. §1692, *et seq.* (hereinafter "FDCPA"), both of which prohibit debt collectors from engaging in abusive,

1 deceptive, and unfair practices. Ancillary to the claims above, Plaintiff further alleges claims
2 for Defendant's violations of the Telephone Consumer Protection Act., 47 U.S.C. §227, *et seq.*
3 (hereinafter "TCPA").
4

5 II. PARTIES

6 2. Plaintiff, Jessika Alexis ("PLAINTIFF"), is a natural person residing in Contra
7 Costa County in the state of California, and is a "consumer" as defined by the FDCPA, 15
8 U.S.C. §1692a(3) and is a "debtor" as defined by Cal Civ Code §1788.2(h).
9

10 3. At all relevant times herein, Defendant, GC Services Limited Partnership
11 ("Defendant"), was a company engaged, by use of the mails and telephone, in the business of
12 collecting a debt from Plaintiff which qualifies as a "debt," as defined by 15 U.S.C. §1692a(5),
13 and a "consumer debt," as defined by Cal Civ Code §1788.2(f). Defendant regularly attempts
14 to collect debts alleged to be due another, and therefore is a "debt collector" as defined by the
15 FDCPA, 15 U.S.C. §1692a(6), and RFDCPA, Cal Civ Code §1788.2(c). Further, Defendant
16 uses an "automatic telephone dialing system" as defined by the TCPA, 47 U.S.C. §227.
17

18 III. FACTUAL ALLEGATIONS

19 4. At various and multiple times prior to the filing of the instant complaint,
20 including within the one year preceding the filing of this complaint, Defendant contacted
21 Plaintiff in an attempt to collect an alleged outstanding debt.
22

23 5. On or about July of 2014, Defendant called Plaintiff on her cellular telephone
24 number ending in -3408 regarding an alleged debt owed. DEFENDANT called PLAINTIFF
25 with such frequency and regularity that it constitutes harassment under the circumstances.
26

27 6. DEFENDANT routinely called from telephone numbers (323)374-0102 and
28 (415)689-1807.

1 7. DEFENDANT left multiple voice messages in PLAINTIFF's voicemail box.
2 On certain occasions, DEFENDANT failed to disclose the purpose of its call and its identity in
3 said messages.
4

5 8. On August 20, 2014, Plaintiff's counsel sent a written notice of representation.
6 Defendant has failed to respond at this time.

7 9. Defendant used an "automatic telephone dialing system", as defined by 47
8 U.S.C. § 227(a)(1), to place its repeated collection calls to Plaintiff seeking to collect the debt
9 allegedly owed.
10

11 10. Defendant's calls constituted calls that were not for emergency purposes as
12 defined by 47 U.S.C. § 227(b)(1)(A).

13 11. Defendant's calls were placed to telephone number assigned to a cellular
14 telephone service for which Plaintiff incur a charge for incoming calls pursuant to 47 U.S.C.
15 §227(b)(1).

16 12. All voice messages made by Defendant to Plaintiffs utilized an "artificial or
17 prerecorded voice" as defined by 47 U.S.C. § 227(b)(1)(A).

18 13. Plaintiff orally revoked any and all consent to be contacted using an "automated
19 telephone dialing system."

20 14. Defendant's conduct violated the FDCPA and the RFDCPA in multiple ways,
21 including but not limited to:

- 22
- 23 a) Engaging in conduct the natural consequence of which is to
24 harass, oppress, or abuse Plaintiff (§1692d));
 - 25 b) Causing a telephone to ring repeatedly or continuously to annoy
26 Plaintiff (Cal Civ Code §1788.11(d));
 - 27 c) Communicating, by telephone or in person, with Plaintiff with
28 such frequency as to be unreasonable and to constitute an
 harassment to Plaintiff under the circumstances (Cal Civ Code
 §1788.11(e));

- d) Causing Plaintiff telephone to ring repeatedly or continuously with intent to harass, annoy or abuse Plaintiff (§1692d(5));
- e) Failing to notify Plaintiff during the initial communication with Plaintiff that the communication was an attempt to collect a debt and any information obtained would be used for that purpose (§ 1692e(11));
- f) Failing to disclose the caller's individual identity in a telephone call to Plaintiff (§ 1692d(6)); and
- g) Communicating with Plaintiff at times or places which were known or should have been known to be inconvenient for Plaintiff (§1692c(a)(1)).

15. Defendant's conduct violated the TCPA by:

- a) using any automatic telephone dialing system or an artificial or pre-recorded voice to any telephone number assigned to a paging service, cellular telephone service, specialized mobile radio service, or other radio common carrier service, or any service for which the called party is charged for the call (47 USC §227(b)(A)(iii)).

16. As a result of the above violations of the FDCPA, RFDCPA, and TCPA, Plaintiff suffered and continues to suffer injury to Plaintiff's feelings, personal humiliation, embarrassment, mental anguish and emotional distress. Plaintiff has even had to resort to taking sleeping pills because of the telephone calls. Defendant is liable to Plaintiff for Plaintiff's actual damages, statutory damages, and costs and attorney's fees.

**COUNT I: VIOLATION OF ROSENTHAL
FAIR DEBT COLLECTION PRACTICES ACT**

17. Plaintiff reincorporates by reference all of the preceding paragraphs.

18. To the extent that Defendant's actions, counted above, violated the RFDCPA, those actions were done knowingly and willfully.

///

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that judgment be entered against Defendant for the following:

- A. Actual damages;
- B. Statutory damages for willful and negligent violations;
- C. Costs and reasonable attorney's fees,
- D. For such other and further relief as may be just and proper.

**COUNT II: VIOLATION OF FAIR DEBT
COLLECTION PRACTICES ACT**

19. Plaintiff reincorporates by reference all of the preceding paragraphs.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that judgment be entered against Defendant for the following:

- A. Actual damages;
- B. Statutory damages;
- C. Costs and reasonable attorney's fees; and,
- D. For such other and further relief as may be just and proper.

**COUNT III: VIOLATION OF TELEPHONE CONSUMER
PROTECTION ACT**

20. Plaintiff incorporates by reference all of the preceding paragraphs.

21. The foregoing acts and omissions of Defendant constitute numerous and multiple negligent violations of the TCPA, including but not limited to each and every one of the above cited provisions of 47 U.S.C. § 227 *et seq.*

22. As a result of Defendant's negligent violations of 47 U.S.C. § 227 *et seq.*, Plaintiff is entitled an award of \$500.00 in statutory damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B).

23. The foregoing acts and omissions of Defendant constitute numerous and

multiple knowing and/or willful violations of the TCPA, including but not limited to each and every one of the above cited provisions of 47 U.S.C. § 227 *et seq.*

24. As a result of Defendant's knowing and/or willful violations of 47 U.S.C. § 227 *et seq.*, Plaintiff is entitled an award of \$1,500.00 in statutory damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

25. Plaintiff is entitled to and seek injunctive relief prohibiting such conduct in the future.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that judgment be entered against the Defendant for the following:

- A. As a result of Defendant's negligent violations of 47 U.S.C. §227(b)(1), Plaintiff is entitled to and requests \$500 in statutory damages, for each and every violation, pursuant to 47 U.S.C. 227(b)(3)(B);
- B. As a result of Defendant's willful and/or knowing violations of 47 U.S.C. §227(b)(1), Plaintiff is entitled to and requests treble damages, as provided by statute, up to \$1,500, for each and every violation, pursuant to 47 U.S.C. §227(b)(3)(B) and 47 U.S.C. §227(b)(3)(C); and
- C. Any and all other relief that the Court deems just and proper.

PLAINTIFF HEREBY REQUESTS A TRIAL BY JURY

Respectfully submitted this 11th day of October, 2014

By: _____

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Attorney for Plaintiff